

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45

COMMENTS OF THE MINNESOTA INDEPENDENT COALITION

The Federal Communications Commission ("Commission") has invited comments on several questions relating to the interim, emergency cap on the amount of high cost support that competitive eligible telecommunications carriers may receive,¹ as set forth in the Joint Board's May 1, 2007 Recommended Decision (the "Emergency Cap")². The Minnesota Independent Coalition ("MIC") supports the Emergency Cap for the reasons set forth below, and submits the following initial comments with respect to the questions identified by the Commission.

1. The Commission Should Control The Growth Of High Cost Support By Capping Support To The Competitive ETCs, As Recommended By The Joint Board.

The Emergency Cap is well supported by information which shows that the explosive growth of support levels requires emergency action. The Emergency Cap reflects the essential realization that the first step in solving a problem is to prevent the problem from worsening.

The Joint Board has shown the recent growth of high cost support, and that, without immediate steps to control further growth, the high cost fund may rapidly become unsustainable. The high cost fund has increased from approximately \$2.6 billion in 2001 to \$4 billion today,

¹ Public Notice released May 14, 2007.

² *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-1 (rel. May 1, 2007).

and projections show that the fund will increase even more rapidly in the near future. Even without including any growth due to the more than 30 complete ETC petitions pending in various state jurisdictions, high cost support for competitive ETCs is projected to nearly double from \$1.28 billion in 2007 to \$2.5 billion in 2009. Halting such growth is an essential first step that must be taken even before the Commission takes steps to implement permanent reform of the high cost fund. Without such a step, the magnitude of the problem will increase very substantially while a solution is considered, making the solution all the more difficult to implement.

2. The Emergency Cap Should Be Limited To Competitive ETCs

The Emergency Cap is also well designed to address the specific causes of that growth. The Joint Board has demonstrated that virtually all of the recent and projected growth in high cost support is related to competitive ETCs. High cost support for incumbent ETCs has been virtually unchanged since 2003 and much of the growth between 2001 and 2003 was attributed to removing implicit subsidies from access charges. In contrast, high cost support to competitive ETCs has increased by nearly a billion dollars from 2001 to 2006 – an annual growth rate of well over 100% during that same time period. As noted above, high cost support for competitive ETCs is projected to increase by nearly an additional \$1.3 billion by from 2007 to 2009, and this is a conservative estimate since it is likely that some of the pending ETC petitions will be approved. Since virtually all of the current and forward looking USF growth is the result of adding competitive ETCs and funding additional ETC lines based on the existing equal support rules, it is entirely appropriate that the Emergency Cap be limited to the source of the problem.

Applying the Emergency Cap to competitive ETCs is also supported by the fact that the payments to the competitive ETCs are not based on their costs, but rather their support is set at the same level as that of the incumbent ETCs. In many cases, this arrangement causes payments believed to be in excess of the costs of the competitive ETCs. Further, the competitive ETCs are presently not required to incur the obligations of a carrier of last resort. These obligations add to the cost structures of the wireline incumbent ETCs, and where the support is provided to the competitive ETCs that do not incur these costs, such support is an unjustified "windfall" that contributes to the growth of the fund.

Thus, it is clear that the principle of competitive neutrality does not preclude imposing the Emergency Cap in competitive ETCs, which is well designed to address the source of the problem. Competitive neutrality does not require identical treatment of providers with very different characteristics.

3. The Operation Of The Emergency Cap Should Be Slightly Modified To Better Assure Accomplishment Of Its Objectives.

The goals of the Emergency Cap are fully supported, and the steps needed to assure accomplishment of those goals should be taken.

The duration of the Emergency Cap should be slightly modified to assure that the Emergency Cap does not terminate before a longer-run reform is accomplished. The proposal is that the Emergency Cap will remain in effect until one year after the Joint Board makes its recommendation as to a permanent reform. Clearly, the intention is to prevent a time gap between the end of the Emergency Cap and the permanent reform. However, that intention may not be accomplished if final action on a Joint Board recommendation is delayed by unforeseen circumstances. To prevent such an unintended result, the Emergency Cap should remain in

effect until a permanent reform plan is implemented or until another determination is made by the Commission.

The MIC concurs with the Joint Board's proposal that a competitive ETC cap applied at a state level effectively curbs growth but allows states some flexibility to direct competitive ETC support to areas in the state that are in the most need of support.

Indexing the fund to payment levels in 2006 is also appropriate. Such a step, along with caps on a statewide basis, will eliminate any incentives that any given state may have to approve the maximum number of competitive ETCs (so as to maximize receipts), but at the same time, maintain a state's ability to approve new ETCs within the constraints of their state cap if they judge the new ETC approval to be in the public interest.

The state reduction factor, as proposed by the Joint Board, to distribute the capped state competitive ETC dollars to all Competitive ETCs in the state should be accepted by the Commission.

Date: June 6, 2007

Respectfully submitted,

/s/ Richard J. Johnson
By Richard J. Johnson, Its Attorney